

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CHRISTOPHER JOHN FREEMAN,  
Plaintiff,  
vs.  
CRISWELL KENNEDY,  
Defendant.

NO. CV-08-192-LRS

ORDER DISMISSING ACTION FOR  
FAILURE TO COMPLY WITH FILING FEE  
REQUIREMENTS

By Order filed July 18, 2008, the court directed Mr. Freeman, a former prisoner at the Spokane County Jail, to submit a new *in forma pauperis* application, or to pay the \$350.00 filing fee for this action. The court cautioned that failure to comply would result in denial of leave to proceed *in forma pauperis* and dismissal of this action. Plaintiff did not comply and he has filed nothing further in this action.

**DISMISSAL FOR FAILURE TO OBEY A COURT ORDER**

"Pursuant to Federal Rule of Civil Procedure 41 (b), the district court may dismiss an action for failure to comply with any order of the court." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). The district court should consider five factors when deciding whether to dismiss a case for failure to obey a court order:

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1 (1) The public's interest in expeditious resolution of  
2 litigation; (2) the court's need to manage its docket; (3) the  
3 risk of prejudice to the defendants; (4) the public policy  
favoring disposition of cases on their merits; and (5) the  
availability of less drastic alternatives.

4 *Ferdik*, 963 F.2d at 1260-61 (Citations omitted).

5 The first two factors weigh in favor of dismissal. The court's  
6 and the public's interests are both served by a quick resolution of  
7 civil rights litigation. The third factor also favors dismissal.  
8 Defendants will not be prejudiced if the claims are dismissed because  
9 the defendants have not yet been served. Only the fourth factor  
10 arguably weighs against dismissal. However, despite the court's  
11 instructions, Plaintiff has not complied. As for the fifth factor,  
12 the only less drastic alternative would be to allow Plaintiff yet more  
13 time to comply. Plaintiff, however, has already had nearly a month  
14 in which to notify the court of his intent to proceed with this  
15 action; and failed to do so. Allowing a further extension would  
16 frustrate the purpose of the first two factors; therefore, the fifth  
17 factor favors dismissal.

18 On balance, the four factors that favor dismissal outweigh the  
19 one that does not. *Ferdik*, 963 F.2d at 1263 (*citing, Malone v. United*  
20 *States Postal Serv*, 833 F.2d 128, 133 n.2 (9th Cir. 1987) (four  
21 factors heavily supporting dismissal outweigh one against dismissal),  
22 *cert. denied*, 488 U.S. 819 (1988)). Accordingly, **IT IS ORDERED**  
23 Plaintiff's request to proceed *in forma pauperis* is **DENIED** and the  
24 action is **DISMISSED WITHOUT PREJUDICE**.

25 **IT IS SO ORDERED.** The District Court Executive is directed to  
26 enter this Order and forward a copy to Plaintiff at his last known  
27  
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1 address.

2 **DATED** this 12th day of August, 2008.

3 *s/Lonny R. Suko*

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5 LONNY R. SUKO  
6 UNITED STATES DISTRICT JUDGE  
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